

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

JOSEPH MASSEY, #107773

PETITIONER

v.

CAUSE NO. 1:12CV153-LG-JMR

**STATE OF MISSISSIPPI and
JOHNNIE DENMARK**

RESPONDENTS

**ORDER ADOPTING REPORT AND RECOMMENDATION
AND DISMISSING PETITION FOR WRIT OF HABEAS CORPUS**

This cause comes before the Court on the Report and Recommendation [9] of Chief United States Magistrate Judge John M. Roper filed in this cause on November 5, 2012. Magistrate Judge Roper reviewed Petitioner's Application for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 and the Respondent's Motion to Dismiss. Judge Roper determined that the grounds asserted in the Application did not entitle Petitioner to relief because the petition was time-barred, and therefore the Application should be denied and the petition dismissed. The Petitioner received the Report and Recommendation on November 9, 2012, but has not filed any objection to the Magistrate Judge's findings or conclusions. Under these circumstances, the Court need only review the Report and Recommendation and determine whether it is either clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

After having thoroughly reviewed the Magistrate Judge's findings of fact and his recommendation, the Court finds them neither clearly erroneous nor contrary to law. They will be adopted as the findings and conclusions of this Court.

IT IS THEREFORE ORDERED AND ADJUDGED that the Report and Recommendation [9] of Chief United States Magistrate Judge John M. Roper filed in this cause on November 5, 2012, should be, and the same hereby is, adopted as the findings of this Court.

IT IS FURTHER ORDERED AND ADJUDGED that the Respondent's Motion to Dismiss [8] is **GRANTED**. Petitioner's request for habeas corpus relief pursuant to 28 U.S.C. § 2254 is **DISMISSED**.

SO ORDERED AND ADJUDGED this the 4th day of January, 2013.

s/ *Louis Guirola, Jr.*
LOUIS GUIROLA, JR.
CHIEF U.S. DISTRICT JUDGE